

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Mac Muir	Team: Squad #2	CCRB Case #: 201605493	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 06/24/2016 11:30 AM	Location of Incident: § 87(2)(b)	Precinct: 88	18 Mo. SOL 12/24/2017	EO SOL 12/24/2017	
Date/Time CV Reported Fri, 06/24/2016 1:07 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 06/24/2016 1:07 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Krzysztof Bogdanowicz	23512	938080	PSA 3
2. POM Ryan Boccad	23122	952477	088 PCT
3. POM Kenny Idowu	12385	952878	PSA 3
4. An officer			
5. POM John Adamo	20053	959439	PSA 3
6. POM Majid Almontaser	15952	943998	PSA 3
7. SGT Joseph Wernersbach	05629	939682	088 PCT
8. POM Amador Rivera	04426	949547	088 PCT
9. POM Jonathan Molina	17327	953123	088 PCT
10. SGT Joseph Marsella	4254	945953	088 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Richard Siedman	03953	942841	PSA 3

Officer(s)	Allegation	Investigator Recommendation
A.POM Majid Almontaser	Force: Police Officer Majid Almontaser used physical force against § 87(2)(b)	
B.POM Krzysztof Bogdanowicz	Force: Police Officer Krzysztof Bogdanowicz used physical force against § 87(2)(b)	
C.POM Kenny Idowu	Force: Police Officer Kenny Idowu used physical force against § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
D.SGT Joseph Wernersbach	Force: Sergeant Joseph Wernersbach used physical force against § 87(2)(b)	
E.SGT Joseph Marsella	Force: Sergeant Joseph Marsella used physical force against § 87(2)(b)	
F.POM Ryan Boccard	Force: Police Officer Ryan Boccard used physical force against § 87(2)(b)	
G.POM Jonathan Molina	Force: Police Officer Jonathan Molina used physical force against § 87(2)(b)	
H.POM Amador Rivera	Force: Police Officer Amador Rivera used physical force against § 87(2)(b)	
I.POM John Adamo	Force: Police Officer John Adamo used physical force against § 87(2)(b)	
J. An officer	Off. Language: An officer made remarks to § 87(2)(b) based upon race.	
K.POM John Adamo	Abuse: Police Officer John Adamo refused to provide his name and shield number to § 87(2)(b)	
L.POM Kenny Idowu	Abuse: Police Officer Kenny Idowu refused to provide his name and shield number to § 87(2)(b)	

Case Summary

On June 24, 2016, § 87(2)(b) submitted the following complaint to the CCRB via telephone. It is being closed over 90 days after it was received due to § 87(2)(g) the fact that the investigation needed to interview eleven officers from multiple commands, and the fact that multiple officers' interview appointments were missed or postponed multiple times before their interviews were finally conducted.

At approximately 11:30 a.m. on June 24, 2016, shortly after a graduation of preschool and kindergarteners, Police Officer Krzysztof Bogdanowicz and Police Officer Majid Almontaser of PSA 3 observed a fight taking place outside of § 87(2)(b) in Brooklyn. The officers observed § 87(2)(b) brothers, § 87(2)(b) and § 87(2)(b) and § 87(2)(b) who was the current boyfriend of § 87(2)(b) who was the mother of § 87(2)(b)'s child, attempting to exchange punches while surrounded by a growing crowd. Police Officer Bogdanowicz and Police Officer Almontaser tried to grab § 87(2)(b) as he attempted to punch § 87(2)(b) (**Allegations A and B**). Police Officer Almontaser made a radio request for additional units. Police Officer Ryan Boccad, Police Officer Amador Rivera, and Sergeant Joseph Wernersbach of the 88th Precinct responded to the location. § 87(2)(b) continued to attempt to fight § 87(2)(b) during which time he allegedly pushed Police Officer Rivera. Police Officer Almontaser, along with Police Officer Kenny Idowu, Sergeant Wernersbach, and Sergeant Joseph Marsella, grabbed § 87(2)(b) and took him to the ground (**Allegations C and D and E**). Police Officer Boccad punched § 87(2)(b) in the face at least once (**Allegation F**). Police Officer Molina punched § 87(2)(b) in the leg (**Allegation G**). Police Officer Amador Rivera allegedly elbowed § 87(2)(b) seven times (**Allegation H**). As officers attempted to restrain § 87(2)(b) Police Officer John Adamo allegedly pulled § 87(2)(b) and § 87(2)(b)'s mother, § 87(2)(b) away by her left arm and pressed her against a fence (**Allegation I**). In the aftermath of the incident, an unidentified officer allegedly said "these niggas" to himself (**Allegation J**). In the transport vehicle, Officers Idowu and Adamo allegedly refused to provide their names and shield numbers to § 87(2)(b) (**Allegation L and M**). § 87(2)(b) was arrested and charged with § 87(2)(a) 160.50 (Board Review 01). § 87(2)(b) was transported to the PSA 3 stationhouse and released.

Surveillance footage was obtained from § 87(2)(b) in Brooklyn. It did not show any portion of this incident. The video is in IAs #271-273. § 87(2)(b) provided a cell phone video that was taken by § 87(2)(b)'s sister, § 87(2)(b). The footage showed the aftermath of this incident (see below). The full video is attached to IA #11 (Board Review 02 and Board Review 03).



2016-09-27_12-20-25.mp4

Mediation, Civil and Criminal Histories

- This complaint was unsuitable for mediation because of the arrests of § 87(2)(b) and § 87(2)(b).
- As per the New York City Comptroller's Office, no Notice of Claim has been filed in regards to this incident as of September 28, 2016.

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[redacted]
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[redacted]

Civilian and Officer CCRB Histories

- This is the first CCRB case involving [§ 87(2)(b)] or [§ 87(2)(b)] (Board Review 05).
- Sergeant Wernersbach has been a member of the NYPD for eleven years and has had six previous CCRB allegations in three cases with one substantiated allegation for a stop in Case #201404142. The Board recommended a command discipline but the NYPD declined to discipline him.
- [§ 87(2)(g)]
- Sergeant Joseph Marsella has been a member of the NYPD for eight years and has had one previous CCRB allegation in one case with no substantiated allegations. [§ 87(2)(g)]
- Police Officer Krzysztof Bogdanowicz has been a member of the NYPD for eleven years and has had two previous CCRB allegations in two cases with no substantiated allegations. [§ 87(2)(g)]
- Police Officer Majid Almontaser has been a member of the NYPD for eight years and has had no previous CCRB allegations.
- Police Officer Amador Rivera has been a member of the NYPD for six years and has had no previous CCRB allegations.
- Police Officer Ryan Bocard has been a member of the NYPD for four years and has had seven previous CCRB allegations in four cases with no substantiated allegations. [§ 87(2)(g)]
- [redacted]
- Police Officer Kenny Idowu has been a member of the NYPD for four years and has had one previous CCRB allegation in one case with no substantiated allegations. [§ 87(2)(g)]
- Police Officer Jonathan Molina has been a member of the NYPD for four years and has had two previous CCRB allegations in one case with no substantiated allegations. [§ 87(2)(g)]
- Police Officer John Adamo has been a member of the NYPD for less than one year and has had no previous CCRB allegations.

Potential Issues

- The investigation made repeated attempts to contact [§ 87(2)(b)]. He did not respond to any of the multiple voicemails and letters left and sent, respectively, for and to him.
- After providing a follow-up statement on June 30, 2016, [§ 87(2)(b)] stopped responding to repeated attempts to contact him for further details about the incident.
- The investigation was unable to identify the individual nicknamed [§ 87(2)(b)] who threatened to shoot [§ 87(2)(b)] before officers responded to the location, who may have witnessed this incident.
- The investigation was unable to obtain contact information for [§ 87(2)(b)] or [§ 87(2)(b)] from any of the other parties involved in this case or via database searches.

- As per NYCHA CCTV, NYCHA maintains no cameras at § 87(2)(b), which is adjacent to the incident location. NYCHA CCTV later informed the CCRB that they maintain cameras at the nearby § 87(2)(b). However, once this footage was requested from the NYCHA Legal Department, we received a response that the footage from those cameras had not been retained.

Findings and Recommendations

Explanation of Subject Officer Identification

- § 87(2)(b) alleged that a 5'10" tall black male officer with a dark complexion and an African accent attempted to restrain him by wrapping his arms around him. Police Officer Molina also stated that a PSA3 officer matching that description was present while § 87(2)(b) was detained. Police Officer Kenny Idowu distinctly matches the description put forth by § 87(2)(b) and Police Officer Molina. § 87(2)(g)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
- Police Officer Adamo stated that he exchanged words with a woman who was loud. § 87(2)(b) was admittedly loud during this incident, and visually identified Police Officer Adamo as the officer who restrained her by viewing him at 46 seconds of the video in IA #11 as he spoke with his partner, Police Officer Idowu. § 87(2)(g)
§ 87(2)(b)
- § 87(2)(b) and § 87(2)(b) alleged that an officer referred to § 87(2)(b) and § 87(2)(b) as "these niggas," seemingly to himself "under his breath." § 87(2)(b) could only describe the officer as an approximately 5'5" tall white male, with dark hair that was not curly. She watched the video in IA #11, which showed the officers involved in this incident, and stated that the officer who said, "these niggas," was not pictured. § 87(2)(b) alternately described the officer as both a short and a tall white male. All identified officers denied having made or having heard any such statements, and § 87(2)(b) did not make this allegation. § 87(2)(g)
§ 87(2)(b)

Allegations not pleaded

- **Force:** § 87(2)(b) alleged that officers repeatedly punched § 87(2)(b) in the sides as he was being walked to the police vehicle after he was handcuffed. § 87(2)(b) did not make this allegation. § 87(2)(g)
§ 87(2)(b)
- **Abuse of Authority:** § 87(2)(b) alleged that Police Officer Idowu refused to provide his name and shield number to her. However in the video provided by § 87(2)(b) a member of § 87(2)(b)'s family can be heard, while Police Officer Idowu is in the camera frame, making a generalized request to for him to provide all of the other officers' names and shield numbers. § 87(2)(g)
§ 87(2)(b)

§ 87(2)(g)

Recommendations

Allegation A – Force – Police Officer Majid Almontaser used physical force against

§ 87(2)(b)

Allegation B – Force – Police Officer Krzysztof Bogdanowicz used physical force against

§ 87(2)(b)

Allegation C – Force – Police Officer Kenny Idowu used physical force against

§ 87(2)(b)

Allegation D – Force – Sergeant Joseph Wernersbach used physical force against

§ 87(2)(b)

Allegation E – Force – Sergeant Joseph Marsella used physical force against

§ 87(2)(b)

Allegation F – Force – Police Officer Ryan Boccard used physical force against

§ 87(2)(b)

§ 87(2)(b) submitted her complaint to the CCRB via telephone on June 24, 2016. § 87(2)(b) was interviewed at the CCRB on June 27, 2016. § 87(2)(b) was interviewed at the CCRB on June 27, 2016. § 87(2)(b) was interviewed at the CCRB on June 27, 2016, and answered follow-up questions via telephone on June 30, 2016 (Board Review 06). § 87(2)(b) § 87(2)(b) provided a statement via telephone on July 8, 2016 (Board Review 07). § 87(2)(b) provided a statement via telephone on July 11, 2016 (Board Review 08).

Police Officer Idowu was interviewed at the CCRB on July 22, 2016. Police Officer Bogdanowicz was interviewed at the CCRB on July 26, 2016. Police Officer Adamo was interviewed at the CCRB on August 1, 2016. Sergeant Richard Siedman of PSA 3 was interviewed at the CCRB on August 5, 2016. Police Officer Almontaser was interviewed at the CCRB on August 8, 2016. Police Officer Boccard was interviewed at the CCRB on August 16, 2016. Police Officer Jose Rivera was interviewed at the CCRB on August 31, 2016. Police Officer Amador Rivera was interviewed at the CCRB on September 6, 2016. Sergeant Wernersbach was interviewed at the CCRB on September 8, 2016. Sergeant Marsella was interviewed at the CCRB on September 19, 2016. Police Officer Molina was interviewed at the CCRB on September 21, 2016.

Prior to the arrival of officers, § 87(2)(b) and § 87(2)(b) along with § 87(2)(b)'s sister, § 87(2)(b) went to the kindergarten graduation of § 87(2)(b)'s child. During the graduation an argument ensued between § 87(2)(b) and the mother of his child, § 87(2)(b) and her new boyfriend, § 87(2)(b). This led to a physical altercation in front of the school between § 87(2)(b) and at least one of § 87(2)(b) unidentified friends. A crowd gathered to watch. It was at this point that officers attempted to intervene.

It is undisputed that upon being confronted by Police Officers Almontaser and Bogdanowicz, § 87(2)(b) § 87(2)(b) attempted to fight § 87(2)(b) § 87(2)(b) stated that after he was punched in the

head by § 87(2)(b) he assumed a fighting stance and walked toward § 87(2)(b) repeatedly saying, “Fight me” with his fists raised, and that his intention was to fight § 87(2)(b) § 87(2)(b) stated that Police Officer Almontaser pushed him away from § 87(2)(b) and told him to calm down. In response, he told Police Officer Almontaser that he would not calm down. An officer told him that if he did not calm down they would have to detain him. Police Officer Idowu attempted to grab § 87(2)(b) from behind but he broke Police Officer Idowu’s grasp. § 87(2)(b) stated that, as the officers attempted to grab him, he “flailed” his arms away from them, at which point the officers rushed toward him simultaneously. When officers tried to restrain him he attempted to “fight out” because he was being hit. He stated that he was punched in the stomach seven times and punched in the head five to eight times. § 87(2)(b) alleged that during his struggle with the officers, he was pressed against a fence and punched in the face at least one time while he was standing. § 87(2)(b) intentionally fell to the ground because he feared that he would be killed if he did not.

§ 87(2)(b) alleged that as a result of the force used by officers in this incident he suffered a small reddened bump behind his right ear, abrasions to his elbows and hands, and a leg contusion. Although he was injured, § 87(2)(b) did not request medical attention because he did not trust the officers. In a follow-up call, he stated that he had not sought medical attention after he was released because he had a headache and did not feel like going outside. At some point he went to the hospital, but left because it was too crowded.

§ 87(2)(b) described the situation prior to officers arriving as a “melee.” She stated that after § 87(2)(b) punched § 87(2)(b) in the head, § 87(2)(b) “got crazy” and § 87(2)(b) chased after him. An officer told § 87(2)(b) that he could not hit § 87(2)(b) and § 87(2)(b) responded by saying that he was going to hit § 87(2)(b). Multiple officers grabbed § 87(2)(b) took him to the ground, and told him he was resisting arrest.

§ 87(2)(b) stated that when § 87(2)(b) was instructed by two officers to turn around, he did not comply with their instructions. Two officers spent approximately two minutes attempting to force § 87(2)(b)’s hands behind his back before backup arrived. The officers repeatedly instructed § 87(2)(b) to get onto the ground, and an officer punched § 87(2)(b) in the face four times, an officer punched § 87(2)(b) in the stomach, and another officer elbowed § 87(2)(b) in the stomach and sides. As this occurred, § 87(2)(b) said, “Why are you hitting me? Get the fuck off me.”

§ 87(2)(b) stated that § 87(2)(b) tried to hit § 87(2)(b) in front of two police officers. Several officers tried to grab § 87(2)(b)’s arms and he repeatedly threw his arms into the air to keep the officers away. She described § 87(2)(b)’s behavior as “out of control.” § 87(2)(b) struck an officer in the eye and in response officers elbowed and punched him in the head. Officers punched § 87(2)(b) until he fell onto the ground on his back, at which point he continued to move his arms erratically.

§ 87(2)(g) Multiple officers stated that § 87(2)(b) attempted to assault § 87(2)(b) before and after being instructed to stop. Multiple officers stated that § 87(2)(b) was instructed to calm down and that he refused to do so. Multiple officers stated that § 87(2)(b) pushed Police Officer Rivera as he was attempting to

get to § 87(2)(b). Multiple officers stated that § 87(2)(b) swung his arms wildly so as to avoid being handcuffed. While some officers stated that § 87(2)(b) was tactically taken to the ground in order to place him in handcuffs, some officers also stated that the officers and § 87(2)(b) fell onto the ground incidentally during the struggle to handcuff him. Multiple officers stated that upon being taken to the ground, § 87(2)(b) attempted to stand back up and also moved his arms so that he could not be handcuffed.

Sergeant Marsella, Sergeant Wernersbach, Police Officer Almontaser, and Police Officer Bogdanowicz all accounted for having made physical contact with § 87(2)(b) as he was taken to the ground: Sergeant Marsella stated that he may have made some contact with § 87(2)(b) but that he was not involved once § 87(2)(b) was on the ground. Sergeant Wernersbach stated that in order to get § 87(2)(b) into custody, he tactically placed his knee in § 87(2)(b)'s back while he was on the ground and that he removed his knee immediately once § 87(2)(b) was in handcuffs. Police Officer Almontaser stated that he may have touched § 87(2)(b) in the stomach but did not recall the specific details. Police Officer Bogdanowicz stated that he and Police Officer Almontaser grabbed § 87(2)(b) as § 87(2)(b) was trying to fight § 87(2)(b).

§ 87(2)(g)

§ 87(2)(g)

Police Officer Boccard stated he may have inadvertently punched § 87(2)(b) in the face while attempting to wrap his arms around § 87(2)(b)'s upper body and take him to the ground. All other officers denied punching § 87(2)(b) in the face.

Police Officer Almontaser stated that he was struck in the eye during this incident and sustained a scrape to his forearm. He did not know who inflicted these injuries and did not know whether it was a civilian or an officer who struck him. Sergeant Wernersbach stated that he observed § 87(2)(b) spit on a woman and knock over an approximately six year-old child.

According to New York State Penal Law §240.20, a person is guilty of disorderly conduct when, with intent to cause public inconvenience, annoyance, or alarm, or recklessly creating a risk thereof, he engages in fighting or in a violent, tumultuous or threatening behavior (Board Review 09). New York Penal Law Section §35.30 and Patrol Guide Procedure 221-01 hold that officers are allowed to use reasonable physical force when necessary to place a person in custody or to prevent escape from custody (Board Review 10 and Board Review 11).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(b) was photographed at the CCRB three days after the incident took place, and showed no signs of having been repeatedly hit in the face in the recent past such as swelling or bruising (Board Review 12). Furthermore, he did not seek any medical attention in regards. The lack of injury to § 87(2)(b)'s face is in contrast to the contusion to his leg and abrasions to his arms and hands that resulted from the later struggle on the ground, which were present at the time of his CCRB interview. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation G – Force – Police Officer Jonathan Molina used physical force against

§ 87(2)(b)

§ 87(2)(b) alleged that while he was on the ground face down, he felt what he believed to be officers stepping on his legs three times.

Police Officer Molina stated that § 87(2)(b) resisted arrest by flailing his arms and not listening to orders or commands. Police Officer Molina stated that he may have repeatedly punched § 87(2)(b)'s legs in order to force him to comply with officers' orders. PO Molina state that he thought § 87(2)(b) was facing down at the time of the punches and that his arms were flailing "all over the place" so as to avoid being handcuffed. Ultimately, Police Officer Molina handcuffed § 87(2)(b).

§ 87(2)(g)

Allegation H – Force – Police Officer Amador Rivera used physical force against

§ 87(2)(b)

§ 87(2)(b) alleged that when he was on the ground, an officer repeatedly elbowed him and punched him in the head. At first, § 87(2)(b) indicated that he was elbowed before being handcuffed, but later stated that after he was placed in handcuffs, an officer continued to elbow him in the head. § 87(2)(b) was elbowed on the ground for approximately thirty seconds, and was handcuffed approximately ten seconds after going to the ground.

§ 87(2)(b) and § 87(2)(b) stated that when § 87(2)(b) was on the ground an officer struck § 87(2)(b) in the head with his elbow several times.

Police Officer Rivera stated that he repeatedly elbowed § 87(2)(b) in the shoulder blade in order to get him to release his arms, which were locked in straightened position so as to avoid being handcuffed. Police Officer Rivera denied elbowing § 87(2)(b) in the head.

§ 87(2)(b) was photographed at the CCRB three days after the incident took place. Although

he had one reddened lump behind his right ear, he showed no other physical signs of having been repeatedly struck in the head with an elbow. § 87(2)(g)

§ 87(2)(g)

Allegation I – Force – Police Officer John Adamo used physical force against § 87(2)(b)

It is undisputed that § 87(2)(b) attempted to intervene in the arrest of § 87(2)(b). While officers attempted to take § 87(2)(b) to the ground, § 87(2)(b) stated that she attempted to grab him so that the officers would stop hitting him. Police Officer Adamo told her to get against a fence and that she verbally refused to do so. § 87(2)(b) alleged that Police Officer Adamo then pulled her away from § 87(2)(b) by her left arm and pressed her against a fence. The investigation took photographs of her arm three days later, which showed bruising (Board Review 13).

Police Officer Adamo stated that while he spoke with § 87(2)(b) during the incident, a civilian, not an officer, pulled her away from the struggle.

§ 87(2)(g)

Allegation J – Offensive Language – An officer made remarks to § 87(2)(b) based upon race.

§ 87(2)(g)

Allegation K – Abuse of Authority – Police Officer John Adamo refused to provide his name and shield number to § 87(2)(b)

Allegation L – Abuse of Authority – Police Officer Kenny Idowu refused to provide his

name and shield number to § 87(2)(b)

§ 87(2)(b) alleged that after he was placed in the vehicle he asked Police Officer Idowu and Police Officer Adamo for their names and shield numbers. He alleged that in response, they both stated that they could not provide that information. Both Police Officer Adamo and Police Officer Idowu stated that § 87(2)(b) did not request their name or shield number at any time.

§ 87(2)(g)
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Squad: 2

Investigator:	_____	_____	_____
	Signature	Print	Date
Squad Leader:	_____	_____	_____
	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
	Title/Signature	Print	Date